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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL A. GONZALEZ,

Defendant and Appellant.

B211498

(Los Angeles County  
Super. Ct. No. YA035222)

APPEAL from an order of the Superior Court of Los Angeles County, Mark S. Arnold, Judge. Affirmed.

Murray A. Rosenberg, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Manuel A. Gonzalez appeals from the trial court's order denying his petition for writ of error *coram nobis*. (Pen. Code, § 1237, subd. (b).)<sup>1</sup> We affirm.

### ***FACTUAL AND PROCEDURAL BACKGROUND***

On December 3, 1997, a felony complaint was filed charging Gonzalez and a co-defendant with first degree residential burglary (§ 459) and receiving stolen property (§ 496, subd. (a)). Gonzalez was held to answer for the alleged burglary.

At proceedings held on December 17, 1997, Gonzalez pleaded nolo contendere to first degree burglary.<sup>2</sup> He waived arraignment for judgment and indicated there was no legal cause why sentence should not be pronounced. The trial court then imposed a term of four years in prison, suspended execution of the sentence and granted Gonzalez probation for a period of three years on the condition he serve 365 days in county jail. Gonzalez was given credit for 26 days already served. The trial court then ordered Gonzalez to pay a \$200 restitution fine (§ 1202.4, subd. (b)) and to make restitution to the victim “in the amount [prescribed by] the probation officer.” (§ 1202.4, subd. (f).)

On August 4, 2008, the trial court received and filed Gonzalez's “Second Petition for Writ of Error *Coram Nobis*.” In a lengthy handwritten document, Gonzalez raised numerous contentions. He first asserted he was misled by his trial counsel in that counsel had told him that the trial court “always follows” the district attorney's recommendation, which in this case would have been probation and a suspended sentence. Apart from

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

<sup>2</sup> The trial court's minute order indicates Gonzalez pleaded guilty.

whether the trial court always follows the prosecutor's recommendation, Gonzalez received exactly what the prosecutor allegedly promised him. He was granted probation after the trial court suspended imposition of a four-year sentence.

Gonzalez asserted that in entering his plea, he was unaware of and failed to waive his rights under *Boykin/Tahl*.<sup>3</sup> However, the trial court's minute order indicates he was advised of and waived those rights. Gonzalez asserted he was not advised of the consequences of pleading to a "strike" offense. However, again, the trial court's minute order indicates he was so advised.

Gonzalez asserted "corrupt [police] officers falsified information against [him]" by tampering with the evidence. He did not, however, indicate exactly what evidence had been tampered with or what "information" the officers lied about. In addition, Gonzalez claimed that "[a]ll the representations made to [him] by the trial attorney were untrue as far as they relate[d] to any alleged promises by the District Attorney on leniency of sentence . . . ." The record again indicates otherwise. The minute orders show that Gonzalez was well advised of the consequences of his plea.

Gonzalez indicated that, years after he entered his plea, he was informed by his co-defendant, Johnny Rivera, that he, Rivera, had been coerced into naming Gonzalez as one of the men who had taken part in the burglary. Moreover, Gonzalez indicated his counsel was aware of the falsity of Rivera's statements implicating Gonzalez, but failed to inform Gonzalez that, should he have decided to challenge the statements in front of a jury, he

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<sup>3</sup> *Boykin v. Alabama* (1969) 395 U.S. 238; *In re Tahl* (1969) 1 Cal.3d 122.

would have had a good chance of winning his case. However, apart from whether he would have had a good chance of winning had he taken his case to trial, Gonzalez, after being properly advised, freely chose to enter a plea.

Gonzalez urged that, because he was only 18 years old and under the influence of an “ ‘alcoholic substance [called] pruno’ ” at the time he entered his plea, he did not understand the consequences of the plea. He indicated he was not competent to enter a plea and, moreover, did not understand that a plea of “no contest” was the equivalent of a plea of guilty. However, a review of the trial court’s minute orders indicates Gonzalez entered a plea only after being advised that a plea of “no contest” or “nolo contendere” would be treated as a plea of “guilty.”

Gonzalez argued that his trial counsel was incompetent in a number of ways including that she failed to properly advise him of the consequences of pleading to a “strike” offense; that she failed to advise him of the effect of waiving his rights under *Boykin/Tahl*; and that she failed to file a notice of appeal after he involuntarily entered the plea. In short, Gonzalez claimed he was coerced by his attorney into entering a plea he did not understand. However, a review of the record indicates Gonzalez knowingly and voluntarily entered a plea.

Finally, Gonzalez argued his case should have been heard separately from that of his co-defendant, Richard Delreal. Gonzalez asserted Delreal falsely implicated him in the crime when, in fact, he, Gonzalez, knew nothing of the burglary. He believed he was simply waiting in the car while three of his friends entered a house in Torrance to retrieve

some of their belongings. Gonzalez had no idea a burglary was taking place. Gonzalez asserted that, due to these and other errors made when he entered his plea, he should have been eligible for relief by means of a writ for error *coram nobis*. He stated he should not be punished for a crime he did not commit.<sup>4</sup>

The trial court ruled on Gonzalez petition for writ of error *coram nobis* on September 10, 2008, stating, “Prior to this one, the defendant has filed many petitions in the trial court, State District Court of Appeal, State Supreme Court, and in federal court raising the same issues that he is now raising again. [¶] All prior petitions have been denied. The current one is, as well, due to it being repetitive and without legal merit.”

Gonzalez filed a timely notice of appeal from the trial court’s order on September 19, 2008.

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<sup>4</sup> “In this state a motion to vacate a judgment in the nature of a petition for *coram nobis* is a remedy of narrow scope. [Citations.] Its purpose is to secure relief, where no other remedy exists, from a judgment rendered while there existed some fact which would have prevented its rendition if the trial court had known it and which, through no negligence or fault of the defendant, was not then known to the court. [Citations.] The applicant for the writ ‘must show that the facts upon which he relies were not known to him and could not in the exercise of due diligence have been discovered by him at any time substantially earlier than the time of his motion for the writ; otherwise he has stated no ground for relief.’ [Citation.]” (*People v. Adamson* (1949) 34 Cal.2d 320, 326-327.)

A petition for *coram nobis* “is an attack upon a judgment which has become final and in favor of which there are strong presumptions of regularity.” (*People v. Adamson, supra*, 34 Cal.2d at p. 329-330.) “In *coram nobis* proceedings there is a strong presumption that the judgment of conviction is valid in all respects. [Citations.] The defendant has the burden of overcoming such a presumption and establishing by a preponderance of the evidence ‘that he was deprived of substantial legal rights by extrinsic causes.’ [Citations.]” (*People v. Goodspeed* (1963) 223 Cal.App.2d 146, 152.) A ruling granting or denying a petition for *coram nobis* is reviewed for abuse of discretion. ( *People v. Ibanez* (1999) 76 Cal.App.4th 537, 544.)

This court appointed counsel to represent Gonzalez on December 17, 2008.

### ***CONTENTIONS***

After examining the record, counsel for Gonzalez filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice filed January 7, 2009, the clerk of this court advised Gonzalez to submit within 30 days any contentions, grounds of appeal, or arguments he wished this court to consider. After receiving an extension of time within which to file it, Gonzalez filed a lengthy, handwritten “Supplemental Brief” on February 20, 2009. In his brief he raises essentially the same issues he raised in the trial court. For example, he indicates he was unaware of the fact that, in entering his plea, he was waiving his rights under *Boykin/Tahl*. In addition, he claims: he was “induced to enter the plea by misstatements made by a responsible public official;” the evidence against him was “tampered with” by police officers and the prosecution; the trial court breached the plea agreement by granting him four years of probation rather than the three years agreed upon; neither his trial counsel nor the trial court explained to him that a plea of no contest is the equivalent of a plea of guilty; he was under the influence of alcohol and was thus incompetent to enter a plea to the burglary charge; he never filled out or signed a written form advising him of his rights and, accordingly, his plea is unenforceable; his trial counsel forged his signature on a number of documents; his trial counsel failed to advise him of the effects of pleading guilty or no contest to a “strike” offense; his trial counsel failed to file a notice of appeal after he entered the fraudulently obtained plea; the trial court erred when it concluded he had entered the plea “knowingly, intelligently . . . and voluntarily;” and

he never entered a plea of guilty to the charges. He involuntarily and unknowingly entered a plea of no contest. Finally, Gonzalez asserts he is not guilty of the charge of burglary. He was simply an innocent bystander.

None of Gonzalez's contentions is supported by the record and his own, self-serving statements, without some corroboration by independently objective evidence, are insufficient to support relief. (*In re Alvernaz* (1992) 2 Cal.4th 924, 938, 945.) The trial court properly exercised its discretion when it denied Gonzalez's petition for writ of error *coram nobis*.

### ***REVIEW ON APPEAL***

We have examined the entire record and are satisfied Gonzalez's counsel has complied with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

***DISPOSITION***

The trial court's order denying Gonzalez's petition for writ of error *coram nobis* is affirmed.

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CROSKEY, Acting P. J.

We concur:

KITCHING, J.

ALDRICH, J.